

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

I. CLAIM STATUS AND AMENDMENTS

Claims 1-21 were pending in this application.

Claims 14-21 are indicated as allowed. Claims 4-13 are objected as being based on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. See page 2 of the Office Action. Applicants appreciate the Examiner's indication of allowable subject matter.

Of the objected claims 4-14, claims 4 and 12 are amended to independent form by incorporating the subject matter of claim 1. The remaining claims are amended, in a non-narrowing manner, to better conform to U.S. claim form for antecedent basis by revising the beginning of the claims to recite "A" or "The" and/or by revising the claims to use proper punctuation. These revisions are non-substantive and should not change the status of the allowability of the claims. Thus, claims 4-21 should now be allowed.

No new matter has been added.

Claims 1-3 stand rejected.

Applicants note that the above claim amendments are intended to address matters of form only as they are not intended

to affect the scope of the claims. Accordingly, if the next Office Action on the merits includes a new ground of rejection of one or more claims, the Action must be non-final.

II. ANTICIPATION REJECTION

Claims 1-3 were rejected under 35 U.S.C. § 102(b) as anticipated by SCUDDER et al. (US 5,461,867) for the reasons on page 2 of the Office Action. This rejection is respectfully traversed.

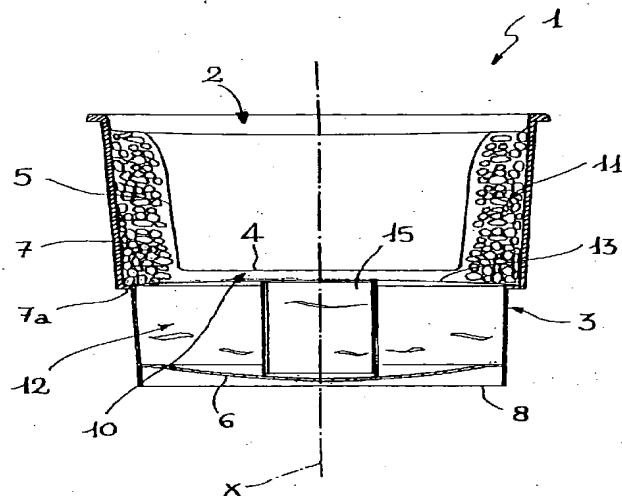
The rejection should fall, because SCUDDER fails to disclose the each and every element of independent claim 1. It is well established that to anticipate a claim, a cited prior art reference must disclose each and every element of the claimed invention. See, M.P.E.P., Eighth Ed., Rev. 6 (September 2007) at § 2131.

Claim 1 calls for a self-heating or self-cooling container having a first receptacle with a beverage inserted in a second receptacle, and having “a first compartment (11) formed between the first and the second receptacle and a second compartment (12) formed on the base of the second receptacle (3) and separated from the first compartment (2) by a breakable diaphragm (13)”. Claim 1 also requires “at least a first and a second component of an exothermic or endothermic reaction being arranged separately and respectively in said compartments, characterized in that said first component is arranged in said

first compartment (11) annularly about said first receptacle (2),
said diaphragm (13) extending, to separate said compartments,
substantially against the base (4) of said first receptacle (2)."

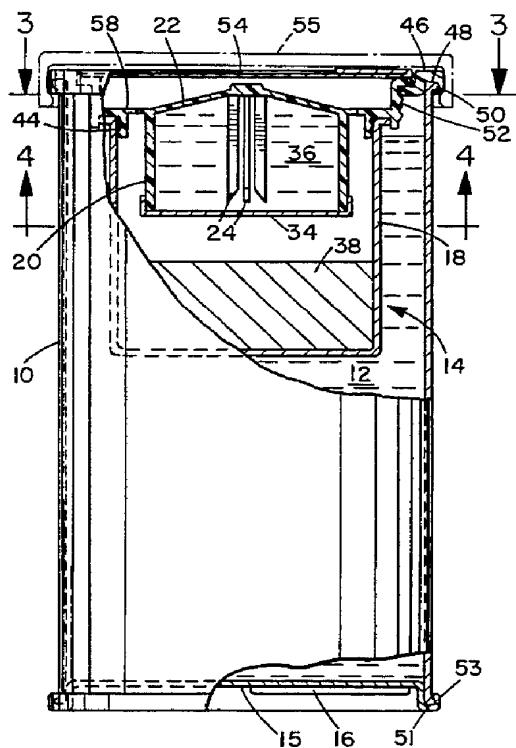
Thus, in the container of claim 1, the first compartment annularly surrounds at least the lateral surfaces of
the first receptacle. The first component, which is in said first compartment (11), also annularly surrounds said first receptacle (2). This position is supported by the disclosure, at page 5, lines 5-6, which indicates that "the first component 11 predominantly extends around the casing of the first receptacle in a substantially annular shape." Figure 1 of the present application, as shown, below illustrates this concept, whereby the first compartment (11) is between the first receptacle (2) and the second receptacle (3).

Fig. 1



Under this arrangement, when the first and second components react to produce a reaction, such as an exothermic reaction, it will exploit all the lateral surface of the first compartment (11) to thereby provide good thermal exchange on the lateral surface of the first receptacle (2). This arrangement provides for a quick reaction of the components, and moreover, a good heat exchange efficiency in order to heat the beverage inside the first receptacle (2).

This arrangement is neither disclosed nor suggested in SCUDDER. Instead, SCUDDER provides reagents stored within a central cup. This is evident by comparing the above Figure 1 of the present application to Figure 1 of SCUDDER below.



As can be seen, in the container of SCUDDER, the central cup (i.e., thermic module (14)) does not annularly surround a receptacle having a beverage therein. Instead, only a portion of the beverage (12) in the container (10) surrounds the central cup (i.e., thermic module (14)) of the device of SCUDDER. Under this arrangement, any heat exchange between the cup and the beverage would take place only with the portion of the beverage around the central cup. This provides for low heat exchange efficiency and a very long time for heat exchange in contrast to the claimed container.

Thus, this arrangement in SCUDDER clearly differs from the container of claim 1, in that SCUDDER does not read on a first component arranged in said first compartment (11) annularly about said first receptacle.

A further difference is that the claimed container of the present application comprises a single integral container fully hermetic towards the outside. By contrast, SCUDDER provides a breaking element on the bottom (See Figure 5, elements 56, 46, 58, 22, 34, and 18) with an exit of reagents to the outside.

For these reasons, it clear that SCUDDER fails to disclose each and every element of claim 1. Thus, claim 1 is novel over SCUDDER. Claims 2-3 depend on claim 1. Accordingly, these claims are also novel over SCUDDER in view of their dependency on claim 1.

Withdrawal of the rejection is requested. In the event that the Office disagrees, Applicant would appreciate an opportunity to hold a telephone interview with the Examiner to discuss the case.

III. CLAIM OBJECTION

On page 2 of the Action, claims 4-13 were objected as being based on a rejected base claim, but would be allowable if rewritten in independent form.

The present amendment overcomes this objection by amending claims 4 and 12 to independent form by incorporating the subject matter of claim 1. It is noted that the remaining claims depend on claims 4 and 12. Thus, claims 4-13 should now be in condition for allowance. Withdrawal of the objection is requested.

IV. CONCLUSION

Having addressed all the outstanding issues, the amendment is believed to be fully responsive. In view of the above, it is respectfully submitted that the application is in condition for allowance and notice to that effect is hereby requested. At least claims 4-21 should now be in condition for allowance in view of the above amendment.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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